

ADDITIONS TO THE PROPOSED TEXT ARE INDICATED IN UNDERLINE (“___”) AND DELETIONS IN STRIKETHROUGH (“—”) FORMAT

§ 2041. Review of Proposed Decisions.

(a) General. Board decisions, except ~~decisions made at recommendation hearings and~~ decisions which do not require a hearing, are proposed decisions and shall be reviewed prior to their effective date in accordance with the following procedures. Any other board decision may be reviewed after its effective date as provided in these rules or as specified by the chief deputy commissioner.

(b) Review of Decisions at Revocation Hearings. Decisions made at revocation hearings shall be effective on the date signed by the panel. P&CSD shall immediately implement the decision.

Within 10 days of the hearing, the decision shall be reviewed by the decision review unit. If the decision review unit disapproves the decision and orders a new hearing, the parolee shall be notified and, if necessary, the parole agent shall place a hold following the criteria of Sections 2600-2602. If the decision review unit modifies the decision without a new hearing, the parole agent shall implement the modified decision immediately.

(c) Decision Review Unit. The decisions specified in this section shall be submitted to the decision review unit upon completion of the hearing. The decision review unit shall be composed of at least one deputy commissioner as designated by the chairman except as otherwise provided in this section. Decisions approved by the decision review unit, except those affecting life prisoners, shall be given an effective date if one is not otherwise provided and released no later than 15 days from the date of the hearing, unless expedited under subdivision (f).

(d) Disapproved Decisions.

(1) The decision review unit may refer proposed decisions concerning ISL parole, ISL rescission and any parole revocation to the reconsideration panel. The reconsideration panel shall, within a maximum period of twenty days from the date of the hearing, (i) affirm the original proposed decision, (ii) order a new hearing or (iii) modify the decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's or parolee's interest. An order for a new hearing vacates the proposed decision.

(2) The decision review unit may refer proposed decisions concerning parole for life prisoners (hearings and rehearings) and extended terms to the counsel. The chief counsel may approve the decision and release it or refer it to a board review committee.

The board review committee shall, within a maximum period of 60 days from the date of the hearing unless there is good cause to extend the review for a longer period and the prisoner is informed of the reason, (i) affirm the original proposed decision, (ii) order a new hearing, or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's or parolee's interest. An order for a new hearing vacates the proposed decision.

(e) Dissent. Any proposed decision made by a three-person panel with one a dissenter shall be reviewed regularly. Any difference of opinion between the two persons on an ISL hearing panel shall be referred to the next immediate ISL panel for another hearing.

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Any difference of opinion concerning parole revocation decisions shall be referred immediately to the chief deputy commissioner or his designee, by telephone if necessary, for resolution.

(f) Expedited Review. Any proposed decision which would result in the immediate release of a prisoner or parolee except one affecting a life prisoner, shall be reviewed, given an effective date and released no later than ten days from the date of the hearing.

(g) Reconsideration Panel Composition. The reconsideration panel shall be composed of one deputy commissioner, the chief deputy commissioner (or his designee) and one commissioner.

(h) Review Committee. The board review committee shall be composed of three commissioners designated by the chairman.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 1170.2, 3041, 3042, 3060, 3063.5, 3063.6, 5075, and 5076.1, Penal Code.

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§ 2269.1. Documentation Hearings.

(a) General. ~~Prisoners committed for first or second degree murders committed on or after November 8, 1978 and prisoners committed pursuant to Penal Code Sections 667.51, 667.7 and 217.1~~ All life prisoners shall have hearings prior to the minimum eligible parole date.

(1) At these hearings the panel shall review the prisoner's activities and conduct considering the criteria in ~~Section §§ 2290 and 2410~~ and document activities and conduct pertinent to granting or withholding postconviction credit. When the board establishes a parole date the panel shall consider this information and determine whether to grant or withhold postconviction credit for time served prior to the date of the hearing at which parole is granted. Once the parole date is established, these prisoners shall have progress hearings as provided in ~~Section § 2269~~.

(2) In order to identify potential cases of Battered Woman Syndrome (BWS), the ~~Deputy Commissioner or Commissioner~~ conducting a documentation hearing shall refer any case to the ~~Executive Officer~~ in which the prisoner appears to have suffered the effects of BWS as defined in ~~Section § 2000(b)~~. The purpose of the investigation is to determine whether it appears the criminal behavior was the result of that victimization.

(b) Panel. This hearing is ~~shall be~~ conducted by a one person panel and the panel member shall be a ~~of one~~ commissioner or deputy commissioner.

(c) Scheduling. This hearing shall be scheduled by department staff. The ~~first~~ documentation hearing shall be held during the 36th month after the life term starts (See ~~Section §§ 2289 and 2411(c)~~). ~~Subsequent documentation hearings shall be held at three year intervals until the initial parole consideration hearing.~~ Time during which service of the life term is tolled because the prisoner is serving a determinate term shall not be included in determining the scheduling of documentation hearings.

Note: Authority cited: Sections 3041 and 5076.2, Penal Code. Reference: Sections ~~217.1~~, 3040, 3041, 3041.5, ~~667.51, 667.7~~, 4801 and 5076.1, Penal Code; In re Stanley, (1975) 54 Cal.App.3d 1030~~(1975)~~.

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§ 2273. Hearings for Prisoners with Changes in Legal Status.

Changes in legal status include: a final court decision altering the prisoner's commitment status, modification of the judgment or abstract of judgment, and new commitments.

(a) Before Initial Parole Hearing. The change in legal status shall be considered at the initial parole hearing as regularly scheduled or as would be scheduled by the change in legal status.

(b) After Initial Parole Hearing. If a prisoner's legal status changes after the initial parole hearing, department staff shall immediately schedule the prisoner for a progress or subsequent parole hearing as appropriate.

(c) New Commitment. If a prisoner with a previously established parole date receives a new commitment to state prison the parole date shall be rescinded. No hearing or other board action is required. The department shall record the rescission of the parole date on the grounds that the prisoner has received a new commitment. The prisoner may appeal the rescission only on the grounds that he is not the person sentenced to state prison by the new judgment.

If the new commitment is for a life sentence, the prisoner shall be scheduled for a recommendation documentation hearing during the ~~ninth~~ 36th month after ~~reception~~ commencement of the life term (§ ~~2267~~ 2269.1) and a parole consideration hearing during the 13th month prior to the new minimum eligible parole date (§ 2268(c)).

If the new commitment is for an indeterminate sentence, the prisoner shall be scheduled for a parole consideration hearing one month before the minimum eligible parole date for the new commitment offense or within 120 days if the M.E.P.D. is within 120 days of receipt of the new commitment (§ 2304).

If the new commitment is for a determinate term, the parole consideration hearing shall be conducted within 60 days of receipt of the new commitment.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3041, 3041.5 and 3041.7, Penal Code.

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§ 2308. Hearings for Prisoners with Changes in Legal Status.

Changes in legal status include: a final court decision altering the prisoner's commitment status, modification of the judgment or abstract of judgment, and new commitments.

(a) Before Initial Parole Hearing. If a prisoner's legal status changes before the initial parole hearing, the change in legal status shall be considered at the initial parole hearing as regularly scheduled or as would be scheduled considering the change in legal status.

(b) After Initial Parole Hearing. If a prisoner's legal status changes after the initial parole hearing, department staff shall immediately schedule the prisoner for a progress or subsequent parole hearing as appropriate.

(c) New Commitment. If a prisoner with a previously established parole date receives a new commitment to state prison the parole date shall be rescinded. No hearing or other board action is required. The department shall record the rescission of the parole date on the grounds that the prisoner has received a new commitment. The prisoner may appeal the rescission only on the grounds that he is not the person sentenced to state prison by the new judgment.

If the new commitment is for a life sentence, the prisoner shall be scheduled for a recommendation documentation hearing during the ~~ninth~~ 36th month after ~~reception~~ commencement of the life term (§ ~~2267~~ 2269.1) and a parole consideration hearing during the 13th month prior to the new minimum eligible parole date (§ 2268(c)).

If the new commitment is for an indeterminate sentence, the prisoner shall be scheduled or a parole consideration hearing one month before the minimum eligible parole date for the new commitment offense or within 120 days if the M.E.P.D. is within 120 days of receipt of the new commitment (§ 2304).

If the new commitment is for a determinate term, the parole consideration hearing shall be conducted within 60 days of receipt of the new commitment unless no parole consideration hearing is required under ~~Section~~ § 2310.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1170.2 and 3041, Penal Code.

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§ 2369. Recommendation Documentation Hearing : ~~Prisoner Rights~~.

~~(a) Multijurisdiction Prisoners Located in California. At the hearing specified in Section 2267, all multijurisdiction prisoners located in California shall have the rights specified in Sections 2245–2255.~~

~~—(b) Multijurisdiction Prisoners Located Outside California. At the hearing specified in Section 2267, all multijurisdiction prisoners located outside California shall have the rights specified in Section 2367. The hearing shall be a telephone hearing.~~

~~—(c) Record. The record of the hearing shall be a tape recording.~~

At this hearing, the panel shall review the prisoner’s activities and conduct considering the criteria in §§ 2290 and 2410 and document activities and conduct pertinent to granting and withholding postconviction credit. This hearing shall be conducted by a one person panel and the panel member shall be a commissioner or deputy commissioner. The hearing shall be scheduled pursuant to § 2269.1. For multijurisdiction prisoners located outside California, the hearing may be conducted over the telephone or by videoconferencing.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 1389.7, 3041, 3041.5, 11190, 11193, Penal Code.